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8 **UNITED STATES DISTRICT COURT**  
9 **SOUTHERN DISTRICT OF CALIFORNIA**  
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11 EUGENIO HAROS-GIRON,  
12                                      Petitioner/Defendant,  
13                      vs.  
14 UNITED STATES OF AMERICA,  
15                                      Respondent/Plaintiff.

CASE NO. 12CV0132-LAB/  
11CR1097-LAB


**ORDER DENYING WITHOUT  
PREJUDICE 28 U.S.C. § 2255  
HABEAS MOTION**

16            On December 27, 2011, the Court entered judgment against Petitioner/Defendant  
17 Eugenio Haros-Giron. On December 30, he filed a notice of appeal. Then on January 13,  
18 2012, he filed a motion to vacate his sentence pursuant to 28 U.S.C. § 2255.

19            When Haros-Giron appealed his sentence, the Court was divested of jurisdiction over  
20 his case, including his § 2255 motion. *Ching v. United States*, 298 F.3d 174, 180 n.5 (2d Cir.  
21 2002). The motion is therefore **DENIED WITHOUT PREJUDICE**.

22 **IT IS SO ORDERED.**

23 DATED: July 9, 2012

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25 **HONORABLE LARRY ALAN BURNS**  
26 United States District Judge  
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